

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JAMES PHANEUF, JOAN PHANEUF,  
JAMES SUSIENKA, and SHARON  
SUSIENKA,

Plaintiffs,

v.

UNITED PARCEL SERVICE, INC.,  
PETER HINES, MICHAEL STOKES,  
ROBERT FERRY and TIMOTHY  
McKENDRY,

Defendants.

CIVIL ACTION NO. 99-40059

U.S. DISTRICT COURT  
DISTRICT OF MASS.  
APR 1 11:41 AM '99  
FILED IN CLERKS  
OFFICE

DOCKETED

DEFENDANT UNITED PARCEL SERVICE, INC.'S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6), defendant United Parcel Service, Inc. ("UPS") moves to dismiss plaintiff James Phaneuf's and James Susienka's claims for breach of the implied covenant of good faith and fair dealing (Counts XIX and XX), wrongful termination in violation of public policy (Counts XXI and XXII), and violation of the Massachusetts Civil Rights Act, G.L. c. 12, § 11I (Counts XXVIII and XXIX). In support of this Motion, UPS refers the Court to its supporting memorandum, filed herewith.

REQUEST FOR ORAL ARGUMENT

UPS requests oral argument on its Motion to Dismiss.

UNITED PARCEL SERVICE, INC.,  
By its attorneys,

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail/by hand

Date: 3/30/99 Carl Luft

Dated: March 30, 1999  
723331.1

Christa v d Luft  
Augustus F. Wagner, Jr. (BBO#511780)  
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Local Rule 7.1 Certificate

I, Christa von der Luft, counsel of record for United Parcel Service, Inc., certify that on March 30, 1999, I attempted to confer with counsel for plaintiffs in a good faith attempt to narrow or resolve the issues presented by this motion but plaintiffs' counsel was unavailable.

Christa von der Luft  
Christa von der Luft